

# EXHIBIT B

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July 12, 2017

U.S. Department of Education  
Office of Management  
Regulatory Information Management Systems  
400 Maryland Avenue, SW, LBJ 2W220  
Washington, DC 20202-4536  
ATTN: FOIA Public Liaison

Dear FOIA Public Liaison:

On behalf of the NAACP Legal Defense Fund, we hereby request that, pursuant to the Freedom of Information Act, 5 U.S.C. § 552, the U.S. Department of Education provide the following information:

- (1) All documents<sup>1</sup> identifying the categories of matters, investigations, or topics that must be reviewed and/or approved by the Department of Education's Office for Civil Rights Headquarters staff in Washington, D.C. (i.e., which categories of matters, investigations, or topics cannot merely be reviewed or approved in the regional offices), including, but not limited to: current guidance and internal enforcement memoranda; guidance and internal enforcement memoranda that have been revoked since December 20, 2016; and any guidance or internal enforcement memoranda that have been issued in place of the previously mentioned revoked guidance or internal enforcement memoranda;
- (2) All documents related to a memo from the Department of Education to Office for Civil Rights Regional Directors entitled "OCR Instructions to the Field re Scope of Complaints",<sup>2</sup> including all documents relating to the need for the memorandum and the changes discussed therein, as well as all communications relating to the memorandum with Department of Education grant recipients and complainants who have filed complaints with the Department of Education Office for Civil Rights;
- (3) All documents, including internal enforcement memoranda, created on or after December 20<sup>th</sup>, 2016, relating to the Department of Education's approach to, or investigation or

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<sup>1</sup> The term "document" is to be interpreted in the broadest possible sense within the meaning of the Freedom of Information Act and shall include, without limitation, any written, printed, typed, spoken, computerized, or other graphic, phonic, or recorded matter of any kind or nature, however produced or reproduced, whether sent or received or neither, including drafts and copies bearing notations or marks not found on the original.

<sup>2</sup> The memorandum is available at: <https://www.propublica.org/documents/item/3863019-doc00742420170609111824.html>.

resolution of, complaints alleging violations of Title VI of the Civil Rights Act of 1964 (Title VI), Titles II and III of the Americans with Disabilities Act (ADA), the Individuals with Disabilities Education Act (IDEA), Title IX of the Education Amendments of 1972 (Title IX), and Section 504 of the Rehabilitation Act of 1973 (Section 504) (collectively, Civil Rights Statutes), and their implementing regulations (collectively, Civil Rights Laws), including, but not limited to: documents relating to the prioritization of certain types of complaints; documents relating to the processing, investigation, or resolution of complaints alleging violations of Civil Rights Laws; documents relating to the processing, investigation, or resolution of complaints alleging claims of disparate impact; and documents relating to the processing, investigation, or resolution of complaints advancing “systemic” or “group” claims on behalf of a class of individuals;<sup>3</sup>

- (4) All documents, including guidance and internal enforcement memoranda, relating to any proposed or final changes to the Office for Civil Rights’ Case Processing Manual made on or after December 20, 2016;
- (5) All internal or external guidance or internal enforcement memoranda rescinded or revised, and all such documents related to decisions surrounding rescinding or revising guidance or internal enforcement memoranda, by the Department of Education on or after December 20, 2016;
- (6) All current organizational charts for the Department of Education Office for Civil Rights, including the roles, hierarchical order, and names of staff currently holding each position. Please indicate all instances where the current staff member has been designated as holding an interim or acting position; and
- (7) All documents regarding limitations, procedures, or protocols governing Department of Education Office for Civil Rights’ staff communications with external to Department of Education individuals or groups created on or after December 20, 2016, including, but not limited to internal policies, internal enforcement memoranda, talking points, and emails.

For each item requested, please provide copies of all pertinent documents in the Department of Education’s possession, whether located at Office for Civil Rights regional offices or headquarters.

If you determine that some portions of the requested records are exempt from disclosure, we will expect, as the Act provides in § 552(b)(9), that you provide us with “any reasonably segregable portion” of the records sought.

In order to determine the applicability of any fees, LDF is a non-profit, public interest organization and this request is not for commercial use. We request a waiver of all fees for this request because disclosure of the requested information is in the public interest. Disclosure is likely to contribute significantly to public understanding of the Department of Education’s activities because LDF will

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<sup>3</sup> This request shall not be construed to include materials arising from the investigation or resolution of an individual complaint if such request would violate the Federal Education Rights and Privacy Act.

use such information to inform its public education and advocacy efforts. In the event that a waiver of fees is not granted, we request a line item estimation of the fees and the basis for the fee request. If all or any part of this request is denied, please provide us with a written statement of the grounds for the denial, citing the law or regulation under which you believe you may deny access. If this is the case, we also request that you inform us of the available remedies for review of the denial. It is essential that this request be responded to within 30 days, as required by § 552(a)(4)(B). If we do not receive a response within 30 days, we will treat your failure to respond as a denial and seek appropriate judicial relief.

If possible, we request that the information we seek be provided in electronic format. Please address any responses to this FOIA request to Ajmel Quereshi. My contact information is below. We appreciate your prompt attention to this matter.

Sincerely,



Ajmel Quereshi  
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NAACP Legal Defense Fund  
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Washington, DC 20005  
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